



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant | Paul S. Enfield |) | Art Unit: | 3627 |
| Serial | 09/902,923 |) | Examiner | Joseph A. Fischetti |
| No. | |) | | |
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| For: | INFORMATION, |) | Attorney | |
| | DIRECTORY, |) | Ref. No.: | P113836 |
| | LOCATION AND | | | |
| | ORIENTATION SYSTEM | | | |
| | FOR RETAIL STORES | | | |
| | AND THE LIKE | | | |

DECLARATION

I, David Weber, having a home address of 2217 Michael Brook, Wenatchee, WA, state the following.

I. I have worked substantially continuously in the grocery business for the past twenty-five years. I began working in a grocery store , first as a stockman and also performing a variety of other chores. Later I became an assistant to the store manager and then worked my way up to be a store manager. For the last fifteen years I have been a store manager in a number of cities in the state of Washington, namely Seattle, Bellingham, Tri-Cities, and Wenatchee.

II. I have been asked by Mr. Robert Hughes, who I understand is the patent attorney who has prepared the above noted patent application of Paul Enfield , to provide certain information concerning the subject matter of the above noted patent application. Mr. Hughes, has provided me with a copy of the U.S. patent application

and he has also sent me copies of three U.S. patents, namely U.S. 5,297,685 (Ramey); U.S. 6,012,244 (Begum et al); and U.S. 6,609,317 (Myers), which I understand were cited by the patent examiner who is handling the patent application of Paul Enfield.

At Mr. Hughes request, I have reviewed the following pages of Mr. Enfield's application namely:

- i. pages 24-26 "Prior art product location signs"
- ii. page 32, beginning on line 13, page 33 and 34 to page 35, line 19, which outline the benefits of Mr. Enfield's system; and
- iii. pages 40 (beginning on line 41), 42, and 43 describing the case study which was conducted concerning Mr. Enfield's system

With regard to the text on pages 24-26 and pages 32-35, I have found that these sections are in line with my views as to what the prior art product location signs have been like, and also the benefits of Mr. Enfield's system. Also, with regard to pages 40-43, the information regarding what was done in my store is totally consistent with my recollection of those events.

III. To explain why Mr. Hughes made this request, in approximately October 11, 1999, I was store manager of a grocery supermarket in Wenatchee, Washington, and I was asked by Mr. Enfield to cooperate in conducting a case study of his new concept for a system for providing information with regard to the location of various

products in a food supermarket. The case study was carried out in a six month trial period, and the case study was conducted in the manner described in pages 40 through 43 in the above noted patent application of Mr. Enfield. I have reviewed these pages 40-43 and to the best of my knowledge the description of the events that occurred in my store are accurate. I did not take part directly in the collecting of the data into the computer and the computations related in the same. However, I was fully familiar with the operation of the super market where I was (and still am) the manager, for substantially the entire six month trial period and am well aware of the events occurring in my store. Also, I personally made numerous observations during the initial three months of the trial period where there wasn't signage of Mr. Enfield's invention, and in the second three months when the signage of Mr. Enfield's patent application were in place.

IV. I have been asked by Mr. Hughes to comment generally on the nature of Paul Enfield's system that has been described in his patent application, and what this produced. For at least the past 20 years, the usual signage that has been placed in the aisles of food supermarkets is often located near the two ends of each aisle, and the signs would be placed eight to ten feet above the floor. The signs would identify at least some of the type of products that are in that aisle. For example, in FIG 11C in Mr. Enfield's patent application there is recited in the signage for that aisle "cereal, coffee, breakfast bars, tea, cocoa, and bread". Over the years, most grocery stores have adopted the practice of not trying to list every item that is in the

aisle, but only a few of them. The reason for this is that grocery stores will commonly group certain type of products in one area or aisle of the store, and by looking at some of the products that are listed, the customer can get an idea of the location of the product which have for years often been placed in proximity to the products listed. Thus, when the customer reads "coffee" on the sign, the customer will assume that quite likely certain other products will be nearby.

As I understand the basis for Mr. Enfield's system, rather than print simply the words for these products (or in addition to printing these words for these products), there would be a graphic presentation of possibly half dozen or more of actual brand name products in that aisle location where those products are located. These are shown as a brand name product and also showing the total product including the brand name, the graphics and packaging. In other words they were shown as the very same products that are presented on the shelf in that aisle.

V. I was also asked by Mr. Hughes whether I would have any indications, possibly from customer comments, whether it was easier to find items in the store by having Mr. Enfield's system in place. My answer to Mr. Hughes was "absolutely yes".

First, during the three month trial period of Mr. Enfield's system in our store, I personally heard a fair number of comments from customers that they found it very easy to shop in the store with being able to

look at the pictures and not have to read the signs. In addition, the employees of the check-out counter would hear comments from the customers, and most all of these comments were compliments as to the convenience provided by Mr. Enfield's system.

Beyond the comments of customers, I gave Mr. Hughes one very clear example of the benefits of Mr. Enfield's system. We were opening one new store and the layout of the store was somewhat different. We had installed Paul Enfield's system, and the employees of the store had to become familiar with where the various items now were in the store. When a store employee is first coming into a new store it is very important that he quickly get as much familiarity as possible with the location of all the items in the store. They all stated to me that with Mr. Enfield's system of signage in place, they found it much easier and much faster to learn the layout of the store when they had these "pictures" to go by.

Mr. Hughes also asked me if I had any explanation for this, and I would surmise that when a person forms a mental image of the representation of the actual products themselves, not just the brand name, but the presentation of the entire product, a person finds it much easier to recall what he saw in the picture as opposed to remembering all the words listed on the sign.

Also, I mentioned to Mr. Hughes in that particular store where the system was installed, there were a fair amount of people who are Latinos, and Mr. Enfield's system provided a convenience for them.

VI. After discussing with Mr. Hughes the matters noted immediately above, Mr. Hughes asked me if there were possibly additional benefits to Mr. Enfield's system. After a short period of reflection my answer was that there are two things that we want to achieve in running a food store. First, we of course want to attract people to come to our store in the first place, and second when they do come to our store we want to make it as easy as possible for them to accomplish their shopping. Mr. Enfield's system was very helpful in accomplishing this. When a person becomes familiar with a store and remembers where various food items are located, the person can accomplish shopping much more easily. With Mr. Enfield's system in place, the person is able to remember product location in the store much more easily, and thus their task of shopping can be accomplished more quickly and easily. Second, when people who did not regularly shop at our store saw this new system initiated by Mr. Enfield, they asked when the next stores were going to adopt this new system. So installing the new system would likely get people into the store, and retain them as regular customers.

VII. I was again asked by Mr. Hughes whether there would be any benefits beyond this. Again I could think of at least a couple more. I don't have any hard evidence on this, but I do know that people are prone to "impulse shopping", which can occur when a person may go into the store to buy only one item, such as a bottle of milk, but then when a person sees another item, that reminds the person that they need that item also. So while that person came in to buy only one

item, he ends up buying another item or several more items. I am personally convinced that the effect of these actual representations of the pictures leads to this kind of buying. It's more mentally stimulating to see the artwork of the brand name products to jog the person's memory.

Another item which comes to mind is that during trial period I had conducted some informal surveys when people were at the checkout counter. FIG 4 of the patent application gives part of the view of what a person would see when located at the checkout counter, except that he would likely see another sign to the right of the one number (2). I would ask a person to quickly find the location of a product by looking at Mr. Enfield's signs showing the actual products themselves. A person would pick out the product almost immediately by looking at the signage of Mr. Enfield's system. My experience based on similar tests with the usual signage has been that people were not able to accomplish this anywhere near as quickly where a person is just looking at the words. This confirms my belief that customers will be able with Paul Enfield's system to find specific food products more quickly.

VIII. I was also asked by Mr. Hughes to give my comments on the three issued patents that are noted in Section II of this declaration, and more particularly to comment on two things, first, whether it would be obvious to develop Mr. Enfield's system simply by examining these three patents, and second whether any of these

patents would indicate that Paul Enfield's system would achieve the benefits which we now know results from Mr. Enfield's position.

I have discussed each of these patents briefly with Mr. Hughes, and I will now comment on each of these.

a) U.S. 6,609,317 (Myers)

Mr. Hughes has advised me that the this Myers patent was cited simply to show that it was already known in what Mr. Hughes call "prior art" to have a store directory which is visible to customers in the shopping area. I would agree with this, so I won't comment on this further.

b) U.S. 6,012,244 (Begum et al.)

I had discussed this patent several weeks ago with Mr. Hughes, and this patent shows a display sign showing a single product where there is the word ACME along with a graphics in the form of a pitcher, and also the type of product, namely "orange juice". This sign is mounted to the pricing tracks that are on the shelves along the aisle, and the sign is flexible. The price of the product is on a price tag 18 that is positioned in the pricing track 16. I would assume that this particular product would be on sale, and that the product would be immediately adjacent to this sign.

This practice of making a special display for a single product that is on sale is of course a common practice in the grocery business. In the stores in which I work, it is common to position a quantity of the

product on the open floor possibly next to the end of the aisle with a special sign identifying the product and also the price. In some instances, an image showing the actual product showing the brand name, graphics and configuration is also shown, for example, the representation of a Coca Cola bottle with a brand name designation in the shape of the bottle itself appearing.

Mr. Hughes has asked me how the sign shown in the Begum et al. patent would relate to Mr. Enfield's system, assuming that I had no familiarity with Mr. Enfield's system. First, I have some reservations about using a sign like this to any great extent. One is that if we are going to advertise very many products with this type of sign, this is going to cause us problems with regard to such things as stocking the shelves, the signs being in the way of customers, etc. Also, with regard to how it relates to Mr. Enfield's system I can't see any reason why one would look at this single sign in this Begum et al. patent and somehow come to the conclusion that this should be gathered with like images and should be made in a display sign to represent all of the products in the aisle. So to summarize it, I would have reservations about using this system in the first place, and would not have any inclination toward expanding it.

c) U.S. 5,297,685 (Ramey)

Mr. Hughes has advised me that this patent was relied upon primarily by the patent examiner to reject Mr. Enfield's patent application. I was asked by Mr. Hughes to adopt a frame of mind where I had never seen or heard of Mr. Enfield's system shown in his patent

application. Mr. Hughes also explained to me that I should assume that I am one of "ordinary skill in this art", which he indicates would be one of reasonable skill in the field of grocery supermarkets. I believe I would be one of at least ordinary skill in the business of grocery supermarkets. Then Mr. Hughes posed the question that if I were given this Ramey patent by itself without knowing about Mr. Enfield's system, would I learn something from the Ramey patent that would lead me to the Enfield system? I can't see where the Ramey patent would have led me to think of Paul Enfield's system nor anyone else to think of it. I would first have to reply that I have been in the grocery store business for twenty-five years, and I haven't seen anything yet that was similar to Mr. Enfield's system. When Paul Enfield first described his system it sounded like it might be a pretty good idea, but we'd have to try it to find out. Now that we've tried it out and found what it did for customer satisfaction, it's been demonstrated that it does work, and in my opinion it works well. I'm pleased we're getting the added degree of customer satisfaction in our store.

To take a closer look at the Ramey patent, in the first part of the patent he discusses in some length the problems in displaying moldings (referred to as "mouldings" in the Ramey patent) and other commodities that are in building industry. Then, in figure 1 of the patent, and also in figure 4 of the patent there is shown a sign at the end of the aisle which displays all of the products on that aisle. Each of these products is a particular type of molding. The name of the molding is displayed, and also there is a drawing showing the cross sectional configuration. Also, this sign at the end of the aisle is color

coded to indicate the part of the aisle where the product is located. Briefly stated, these signs are to identify each and every product on the aisle and its precise location.

Now if I were to look at the Ramey patent and see how I might adapt this in the grocery supermarket business, I believe the logical thing that I would think of is to produce a rather complete directory sign at the end each aisle and then give some sort of color coding or information where each product might be located in that aisle, what shelf it would be on, and how far down the aisle. That is what I believe I would come up with. This is quite the opposite of what Mr. Enfield is trying to accomplish. In Mr. Enfield's system, when the shopper sees this grouping of some brand name food products, the shopper would automatically think of related products which would be in that same general location.

Then the next question Mr. Hughes asked me is if I were also shown the Begum et al. patent which I discussed above, would I somehow use this in connection with the Ramey patent to come up with something close to Mr. Enfield's system. My feeling is that if I were to look at the aisle sign in the Begum patent, I would end up doing about the same thing that is already shown in the Ramey patent. In looking at Fig. 2 of the Ramey patent there are some of the aisle signs that are placed at different locations down the aisle, and each of these shows the specific products at that location. However, since the particular product here are moldings and they are long enough so a person can not actually see what the cross section of the molding

looks like, the drawing of the cross section is shown. But that is for a totally different reason than the brand name products used in Mr. Enfield's application.

That sums up my comments on those three patents.

I, David Weber, hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application thereon.

EXECUTED this 23rd day of MAY, 2005.

DAVID WEBER
